

Exhibit “B”

Deposition of Sheriff John Mark Tirey

<p style="text-align: right;">Page 1</p> <p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE NORTHERN DISTRICT OF ALABAMA 3 NORTHEASTERN DIVISION 4 5 CIVIL ACTION NO.: 6:09-CV-1748-SLB 6 7 GEORGE R. CHAPMAN, JR., 8 Plaintiff, 9 vs. 10 WALKER COUNTY, ALABAMA, et al., 11 Defendants. 12 13 DEPOSITION TESTIMONY OF 14 JOHN MARK TIREY 15 16 17 May 17, 2011 18 10:05 a.m. 19 20 COURT REPORTER: 21 MELANIE L. PETIX, CCR 22 23</p>	<p style="text-align: right;">Page 3</p> <p>1 leading questions and that counsel for 2 the parties may make objections and 3 assign grounds at the time of trial or 4 at the time said deposition is offered 5 in evidence, or prior thereto. 6 In accordance with the Federal 7 Rules of Civil Procedure of the United 8 States District Court, I, Melanie L. 9 Petix, Certified Shorthand Reporter and 10 Notary Public, am hereby delivering to 11 John D. Saxon, Esq. the original 12 transcript of the oral testimony taken 13 on May 17, 2011. 14 15 16 17 18 19 20 21 22 23</p>
<p style="text-align: right;">Page 2</p> <p>1 STIPULATIONS 2 It is stipulated and agreed 3 by and between the parties through their 4 respective counsel that the deposition 5 of JOHN MARK TIREY, may be taken before 6 Melanie L. Petix, Certified Shorthand 7 Reporter and Notary Public for the State 8 of Alabama at Large, at the Walker 9 County Jail, 2001 2nd Avenue, Jasper, 10 Alabama 35501 on May 17, 2011, 11 commencing at approximately 10:05 a.m. 12 It is further stipulated and 13 agreed that the signature to and the 14 reading of the deposition by the witness 15 is waived, the deposition to have the 16 same force and effect as if full 17 compliance had been had with all laws 18 and rules of court relating to the 19 taking of depositions. 20 It is further stipulated and 21 agreed that it shall not be necessary 22 for any objections to be made by counsel 23 to any questions, except as to form or</p>	<p style="text-align: right;">Page 4</p> <p>1 APPEARANCES 2 3 4 FOR THE PLAINTIFF: 5 JOHN D. SAXON, Esq. 6 2119 Third Avenue North 7 Birmingham, Alabama 35203 8 9 10 FOR THE DEFENDANTS: 11 KRISTI A. DOWDY, Esq. 12 KRISTI A. DOWDY, P.C. 13 300 N. Richard Arrington, Jr. Blvd. 14 Suite 200 15 Birmingham, Alabama 35203 16 17 18 ALSO PRESENT: 19 TRENT McCLUSKY 20 21 22 23</p>

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<p>1 INDEX</p> <p>2</p> <p>3 EXAMINATION BY: PAGE</p> <p>4 MR. SAXON 7</p> <p>5 MS. DOWDY 62</p> <p>6</p> <p>7 FURTHER EXAMINATION BY:</p> <p>8 MR. SAXON 76</p> <p>9 82</p> <p>10 MS. DOWDY 80</p> <p>11</p> <p>12 EXHIBITS</p> <p>13</p> <p>14</p> <p>15 (There were no exhibits</p> <p>16 marked for identification.)</p> <p>17</p> <p>18 --oOo--</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>	<p>1 EXAMINATION BY MR. SAXON:</p> <p>2 Q. State your name for the record,</p> <p>3 please, sir.</p> <p>4 A. John Mark Tirey, T-I-R-E-Y.</p> <p>5 Q. Sheriff, my name is John Saxon.</p> <p>6 As you know, I represent Mr. Chapman in</p> <p>7 the lawsuit that has you here today.</p> <p>8 I'm going to be asking you some</p> <p>9 questions. If at any time I ask you a</p> <p>10 question that you don't understand, if</p> <p>11 you would, just stop me and get me to</p> <p>12 reword or rephrase it, I will be glad to</p> <p>13 do that. Can we agree on that?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Likewise, if you don't do that,</p> <p>16 I will assume you understood my</p> <p>17 question. Is that fair enough?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Are you suffering from any</p> <p>20 illness or taking any medication that</p> <p>21 would in any way impair your ability to</p> <p>22 think, speak, or remember clearly?</p> <p>23 A. No, sir.</p>
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<p>1 I, Melanie L. Petix, Certified</p> <p>2 Shorthand Reporter and Notary Public for</p> <p>3 the State of Alabama at Large, acting as</p> <p>4 Commissioner, certify that on this date,</p> <p>5 pursuant to the Federal Rules of Civil</p> <p>6 Procedure of the United States District</p> <p>7 Court, and the foregoing stipulation of</p> <p>8 counsel, there came before me at the</p> <p>9 Walker County Jail, 2001 2nd Avenue,</p> <p>10 Jasper, Alabama 35501, commencing at</p> <p>11 approximately 10:05 a.m. on May 17,</p> <p>12 2011, JOHN MARK TIREY, witness in the</p> <p>13 above cause, for oral examination,</p> <p>14 whereupon, the following proceedings</p> <p>15 were had:</p> <p>16</p> <p>17 JOHN MARK TIREY,</p> <p>18 being duly sworn, was examined and</p> <p>19 testified as follows:</p> <p>20</p> <p>21 COURT REPORTER: Usual</p> <p>22 stipulations?</p> <p>23 MS. DOWDY: Please.</p>	<p>1 Q. What is your date of birth?</p> <p>2 A.</p> <p>3 Q. And your place of birth?</p> <p>4 A. Jasper, Alabama.</p> <p>5 Q. Where did you grow up?</p> <p>6 A. Carbon Hill, Alabama.</p> <p>7 Q. What is your educational</p> <p>8 background?</p> <p>9 A. Just shy of a four-year degree</p> <p>10 in criminal justice. Four -- real</p> <p>11 close. I just never did finish it up.</p> <p>12 Q. Where was that?</p> <p>13 A. UAB and Jeff State, Walker</p> <p>14 College.</p> <p>15 Q. I was at Jeff State yesterday</p> <p>16 in an arbitration with Dr. Merritt.</p> <p>17 By whom are you presently</p> <p>18 employed?</p> <p>19 A. I am the elected sheriff of</p> <p>20 Walker County, Alabama, I guess employed</p> <p>21 by the people.</p> <p>22 Q. What are your duties, your</p> <p>23 duties as sheriff?</p>

2 (Pages 5 to 8)

<p style="text-align: right;">Page 9</p> <p>1 A. Manage the entire operational</p> <p>2 part of the sheriff's office, which</p> <p>3 includes many divisions: The jail,</p> <p>4 investigations, patrol, elections. I</p> <p>5 mean, it's quite a lot.</p> <p>6 Q. And in terms of the jail, does</p> <p>7 Mr. McClusky report to you?</p> <p>8 A. Yes, sir, he does.</p> <p>9 Q. And how long have you been</p> <p>10 sheriff? Since '95?</p> <p>11 A. Yes, sir.</p> <p>12 Q. I have some questions I ask</p> <p>13 everybody, Sheriff, so bear with me.</p> <p>14 Have you ever been arrested?</p> <p>15 A. No, sir.</p> <p>16 Q. Not yet, at least?</p> <p>17 A. That's correct.</p> <p>18 Q. Have you ever declared</p> <p>19 bankruptcy?</p> <p>20 A. No, sir.</p> <p>21 Q. Have you ever been terminated</p> <p>22 from a job?</p> <p>23 A. No, sir.</p>	<p style="text-align: right;">Page 11</p> <p>1 County?</p> <p>2 A. No, sir. I think the judge</p> <p>3 that signed it was Fayette County. I</p> <p>4 think I'm telling you right. That's</p> <p>5 been about five years. But I'm almost</p> <p>6 certain of that.</p> <p>7 Q. Were you living in Fayette</p> <p>8 County at the time?</p> <p>9 A. No, sir.</p> <p>10 Q. Was she living in Fayette</p> <p>11 County?</p> <p>12 A. No, sir.</p> <p>13 Q. What, if anything, did you do</p> <p>14 to prepare for this deposition?</p> <p>15 A. I reviewed the files that were</p> <p>16 presented to me at the end of the</p> <p>17 investigation. I reviewed the documents</p> <p>18 early this morning.</p> <p>19 Q. Okay. Would that be as it</p> <p>20 relates to the Decatur incident or</p> <p>21 terminating George Chapman? I think I</p> <p>22 know what you are talking about, but I</p> <p>23 need you to be a little more specific.</p>
<p style="text-align: right;">Page 10</p> <p>1 Q. Have you ever served in the</p> <p>2 military?</p> <p>3 A. No, sir.</p> <p>4 Q. What is your marital status?</p> <p>5 A. Married.</p> <p>6 Q. What is your wife's name?</p> <p>7 A. Lora, L-O-R-A, Tirey.</p> <p>8 Q. How long have y'all been</p> <p>9 married?</p> <p>10 A. June the 19th will be three</p> <p>11 years.</p> <p>12 Q. And is that your one and only</p> <p>13 marriage?</p> <p>14 A. No, sir. It's my second.</p> <p>15 Q. Who was your first?</p> <p>16 A. Tonja. T-O-N-J-A. She has</p> <p>17 since remarried. Do you want her new</p> <p>18 name?</p> <p>19 Q. Yeah. What's her new name?</p> <p>20 A. Strickland.</p> <p>21 Q. How long were y'all married?</p> <p>22 A. Twenty-six years.</p> <p>23 Q. Were y'all divorced in Walker</p>	<p style="text-align: right;">Page 12</p> <p>1 A. The entire situation. I</p> <p>2 reviewed where I actually -- well, let</p> <p>3 me say it this way: I reviewed the</p> <p>4 statements, the investigative file that</p> <p>5 was presented to me, and then I actually</p> <p>6 reviewed a letter where I actually</p> <p>7 terminated Mr. Chapman.</p> <p>8 Q. When you say investigative</p> <p>9 file, you mean of the Joseph Decatur</p> <p>10 incident?</p> <p>11 A. Yes, sir. I'm sorry. Yes,</p> <p>12 sir.</p> <p>13 Q. And the statements that were</p> <p>14 taken regarding the Decatur incident?</p> <p>15 A. I reviewed the written ones,</p> <p>16 yes, sir.</p> <p>17 Q. Have you ever been deposed</p> <p>18 before?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Have you ever been deposed in</p> <p>21 an employment discrimination case</p> <p>22 against the county and/or you personally</p> <p>23 involving race discrimination?</p>

<p style="text-align: right;">Page 13</p> <p>1 A. No, sir.</p> <p>2 Q. Have you given a deposition in</p> <p>3 any other employment cases?</p> <p>4 A. Not that I recall.</p> <p>5 Q. Why was George Chapman</p> <p>6 terminated?</p> <p>7 A. I guess the correct way to</p> <p>8 start out the thing: After reviewing</p> <p>9 this, I felt like he violated several</p> <p>10 policies that are in place here at the</p> <p>11 sheriff's office, that are put in place</p> <p>12 to protect him, our employees and</p> <p>13 inmates, and I felt very strongly that</p> <p>14 he violated those after considering the</p> <p>15 entire investigation and reviewing all</p> <p>16 that.</p> <p>17 Q. All right. What policies did</p> <p>18 he violate?</p> <p>19 A. First, it's our policy here in</p> <p>20 the M-Dorm for two correctional officers</p> <p>21 to be there when a door is opened, a</p> <p>22 cell door. That was the first policy</p> <p>23 violation.</p>	<p style="text-align: right;">Page 15</p> <p>1 problems in the regular jail areas, they</p> <p>2 are brought to that area and housed.</p> <p>3 Q. And the policy that two</p> <p>4 officers be present when the cell door</p> <p>5 is opened, where are these officers</p> <p>6 supposed to be?</p> <p>7 A. (No response.)</p> <p>8 Q. The officer, him or herself,</p> <p>9 cannot open the cell doors, so you have</p> <p>10 always got somebody in the control room.</p> <p>11 You are not talking about that one,</p> <p>12 right?</p> <p>13 A. No, sir.</p> <p>14 Q. In the unit itself, where are</p> <p>15 the two officers supposed to be? Do</p> <p>16 they both have to be standing there at</p> <p>17 the door or can --</p> <p>18 A. Yes, sir.</p> <p>19 Q. And in your experience, has</p> <p>20 there ever been any other instance at</p> <p>21 the jail where a correction officer</p> <p>22 opened or had opened a cell door in</p> <p>23 M-Dorm and was the only officer standing</p>
<p style="text-align: right;">Page 14</p> <p>1 I guess the second violation of</p> <p>2 our policy, after the inmate was subdued</p> <p>3 and not combative, he struck the inmate</p> <p>4 several times, as I recall, probably, I</p> <p>5 think, four after he was on the ground.</p> <p>6 That is certainly in violation of our</p> <p>7 use of force policy here at the jail.</p> <p>8 Q. Any other policies he violated?</p> <p>9 A. Not that I recall at this</p> <p>10 instant, no, sir.</p> <p>11 Q. Does Walker County Sheriff's</p> <p>12 Department or jail have a progressive</p> <p>13 discipline policy?</p> <p>14 A. No, sir, I would not say that's</p> <p>15 a correct statement.</p> <p>16 Q. Let's talk about the two</p> <p>17 policies you say Mr. Chapman violated.</p> <p>18 The M-Dorm, for the record, what is the</p> <p>19 M-Dorm?</p> <p>20 A. That's our maximum security,</p> <p>21 our segregation unit for folks who are</p> <p>22 either such a security risk or have</p> <p>23 acted up or out into the jail and caused</p>	<p style="text-align: right;">Page 16</p> <p>1 there?</p> <p>2 A. Yes, sir.</p> <p>3 Q. All right. When would that</p> <p>4 happen?</p> <p>5 A. I have no doubt that that has</p> <p>6 happened. I can't give you an exact</p> <p>7 date. It could be for an extreme</p> <p>8 emergency situation, maybe an inmate</p> <p>9 down, what the officer at the door</p> <p>10 deemed unconscious or some emergency</p> <p>11 situation.</p> <p>12 Q. So there are exceptions to that</p> <p>13 rule?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Do you know any -- can you name</p> <p>16 any officer in particular who has</p> <p>17 participated in one of those exceptions</p> <p>18 where one officer was standing at the</p> <p>19 cell door when it was opened in M-Dorm</p> <p>20 by him or herself?</p> <p>21 A. No, sir. None just from</p> <p>22 memory, no, sir.</p> <p>23 Q. But you know it has happened?</p>

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1 A. I feel very strongly that it
2 has, yes, sir.

3 Q. And I understand you have been
4 here, been sheriff about 16 years, and a
5 lot of things happen and you don't
6 necessarily walk around making notes
7 every day because you might give a
8 deposition some years later.

9 But you say: I feel strongly
10 that it has. Can you not recall any
11 specific instance that allows you to say
12 that?

13 A. I don't remember any particular
14 -- I mean, I'm certain that there have
15 been times when someone was sick,
16 unconscious or something that's not by
17 any stretch normal, that someone would
18 have breached that door with one person.
19 I mean, I don't recall that we have ever
20 had any person in that area of the jail
21 that have hanged themselves. Certainly,
22 that happens in jails, but I don't think
23 it did in there. But certainly that

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1 would be a situation. If one of them
2 passed by there and observed somebody
3 hanging, they would have certainly
4 breached that door, I guess as an
5 example. But I feel certain that that
6 has -- I couldn't by no stretch of the
7 imagination tell you that has never
8 happened.

9 Q. If, as you think, it has
10 happened, was the sole officer standing
11 at the door, who breached the door in
12 violation of policy, was that officer
13 terminated?

14 A. No, sir, not that I am aware
15 of.

16 Q. The second policy that you say
17 Officer Chapman violated was that after
18 the inmate was subdued and not
19 combative, he struck the inmate several
20 times while on the ground. I want to
21 walk you through that statement. All
22 right.

23 The inmate we are talking about

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1 is Joseph Decatur, correct?

2 A. Yes, sir.

3 Q. You say after the inmate was
4 subdued. Now, how was the inmate
5 subdued?

6 A. From every account that I read
7 and considered before his termination,
8 he was on the ground, he had been
9 Tasered. It's my understanding from all
10 the reports, the two probes were still
11 in the inmate, still attached to the
12 Taser, which allows the ability to begin
13 a second cycle of the Taser. And at
14 some point while he was on the ground,
15 from reading the reports, Mr. Chapman
16 struck him with a baton while he was on
17 the ground.

18 Q. And you say Decatur, after
19 being subdued, was not combative; is
20 that correct?

21 A. Yes, sir. That's my
22 understanding from reading those, yes,
23 sir.

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1 Q. Now, are you aware that some of
2 the reports, the statements of the
3 eyewitnesses conflict on some of these
4 points you have made?

5 A. I know of one that sticks out
6 that may not dovetail with the rest.
7 But I thought it unique that there were
8 so many, even including inmates, which
9 is not always the same as the officers,
10 but in this case, I think they were
11 pretty well, with the exception of one
12 that I recall.

13 Q. What is the one you know of
14 which sticks out?

15 A. I think Clifton.

16 Q. All right. And you think
17 that's the only one that is in any way
18 at odds with the others?

19 A. That's the only one I recall,
20 yes, sir.

21 Q. In what way was Officer
22 Clifton's statement at odds with the
23 others?

5 (Pages 17 to 20)

<p style="text-align: right;">Page 21</p> <p>1 A. From my memory of re-reviewing 2 that this morning, I think she may have 3 indicated that he was wiggling or 4 moving. 5 Q. What all did you review and 6 what all input did you have in making 7 the decision to terminate George 8 Chapman? And I guess I should ask you 9 first, was that your decision? 10 A. Ultimately, yes, sir. Totally, 11 I am the only one that can make that 12 decision here. 13 Q. Okay. 14 A. I mean, do you want me to -- I 15 don't guess I understand what you are 16 asking exactly, sir. 17 Q. Okay. I want to know 18 everything that went into your process 19 of making that decision, meaning, I got 20 a report, I had a lot of statements, I 21 read them. That was it. Or I also 22 talked to some people, I talked to and 23 then name them, whoever that would be.</p>	<p style="text-align: right;">Page 23</p> <p>1 investigation or another investigation. 2 I won't say another. But to follow it 3 up more in-depth to make sure that we 4 had everything we could possibly gather. 5 And I recall speaking with 6 Sergeant Harper at some point in time. 7 And here again, I can't tell you whether 8 hers was in writing at that time or if 9 she just verbally said, look, boss, I 10 think he may have went outside the 11 policy. 12 My position on both those, and 13 I respect them, but certainly I think I 14 indicated, well, look, I'm having 15 Sergeant Darrell Mote relook at all 16 this, do more in-depth, you know, 17 checking on this and I'm waiting on his 18 investigation. 19 At some point in time, Sergeant 20 Darrell Mote, been with me about 15 21 years, quite thorough in his work, came 22 and presented me with a file which 23 included some of the things I had</p>
<p style="text-align: right;">Page 22</p> <p>1 I interviewed people myself. I prayed 2 to the Good Lord about it. Just tell me 3 whatever you did to make your decision 4 to terminate Officer Chapman. 5 A. Yes, sir. As I recall, I think 6 after this incident, and I directed an 7 investigation, my jail administrator, 8 and I can't tell you when, within a day 9 or two, I think, and I don't recall 10 whether he verbally told me or put it in 11 writing, I have not seen that document 12 this morning in my review and it may 13 very well be there. I can't recall. 14 But Mr. McClusky, Trent 15 McClusky, jail administrator, told me he 16 felt like this was a pretty serious 17 incident and his recommendation is that 18 I look towards -- you know, that he 19 didn't think it was going to work out or 20 termination may be what he recommended. 21 Something very close to that. 22 As I recall, I had gotten 23 Sergeant Darrell Mote to actually do the</p>	<p style="text-align: right;">Page 24</p> <p>1 already seen. He did some formal 2 statements that, I think, are on CD, and 3 he and I discussed it. And after which 4 there -- within a few days, I made the 5 decision that I felt like this was 6 severe enough, the incident, this 7 incident to terminate George, 8 Mr. Chapman. 9 Q. And that was the recommendation 10 that Mr. McClusky had given you, that 11 Chapman be terminated? 12 A. As I recall, yes, sir. 13 Q. And for the record, what is 14 Mr. McClusky's race? 15 A. White male. White. 16 Q. And Sergeant Mote's race? 17 A. White. 18 Q. Sergeant Harper's race? 19 A. White female. 20 Q. For the record, what is your 21 race? 22 A. I'm white. 23 Q. Did Sergeant Mote actually do a</p>

<p style="text-align: right;">Page 25</p> <p>1 report himself, a written summary of 2 what he had found and concluded? Or did 3 he just give y'all the statements that 4 he collected up? 5 A. I have not found that report. 6 I thought he did. I have asked him if 7 he did, he does not recall from memory. 8 And I asked him to look, but I don't 9 think he has found it. But I thought he 10 did, but I could be mistaken. 11 Q. And I say that, Sheriff, 12 because I don't think I have seen a 13 report as such. And I'm not suggesting 14 one exists. I'm just inquiring. 15 A. I understand. But on the cuff, 16 I would probably say I thought he did, 17 but I have not found it. And it's 18 possible he did not. So I can't say 19 with any certainty that there is or 20 there isn't. I have not found it. 21 Q. Now, that gets us to something 22 else that either can't be found or 23 didn't exist. Y'all have video cameras</p>	<p style="text-align: right;">Page 27</p> <p>1 jail when we moved here in 1998 used the 2 technology that was available. It was a 3 VHS, the big tape like everybody's VCR. 4 That system does not simultaneously 5 record every camera in this jail at once 6 and store that data. You have to select 7 which one you want, to make sure and 8 record. It's not automatic. That was 9 the technology. 10 So it's possible that if 11 somebody punched the button in the 12 control unit and it recorded it, it 13 would be there. If they did not, it was 14 not captured. And to further answer 15 your question, that entire system went 16 down last year, I suppose, on a 17 lightning strike and we put in a whole 18 new system that is now on CD, to answer 19 your question. 20 Q. Okay. Have you, yourself, 21 either made investigation or directed 22 anyone under you, be that Mr. McClusky 23 or anybody else, to go look for whatever</p>
<p style="text-align: right;">Page 26</p> <p>1 in the M-Dorm, TV cameras, 2 closed-circuit cameras? 3 A. Yes, sir. 4 Q. What kind are they? What would 5 you call them? 6 A. Closed-circuit cameras, I 7 suppose. 8 Q. And y'all had them at the time 9 of the Decatur incident? 10 A. Yes, sir. 11 Q. And did they run continuously, 12 24 hours a day? 13 A. The system does, yes, sir. 14 Q. And should there be a video, 15 whether it's on tape, CD, whatever, of 16 that incident that exists at present? 17 A. Well, there could be. There 18 could be one, but there may not be one, 19 to answer your question. 20 Q. Okay. That gives me a world of 21 possibilities. So why might there be 22 one and why might there not be one? 23 A. The system that was put in this</p>	<p style="text-align: right;">Page 28</p> <p>1 might exist: Tape, CD and the like -- 2 well, I guess a tape of the George 3 Chapman/Joseph Decatur incident? 4 MS. DOWDY: They have done so 5 at my request, John. I mean, I don't 6 even know that the sheriff and I have 7 discussed that. But they have done it 8 at my request. 9 Q. What did you find, Sheriff? 10 A. I don't have a tape. I don't 11 know of one existing. 12 Q. And do you know why that is? 13 And from what you have already told me, 14 there would be several possibilities. 15 One is nobody directed the VCR, if that 16 was the technology, to actually record 17 what the cameras might have been seeing 18 in that part of the M-Dorm where Chapman 19 and Decatur were; that's one 20 possibility. Another is it recorded 21 every second of it, but somehow was lost 22 or not retained when y'all changed over, 23 or it got destroyed by lightning or</p>

<p style="text-align: right;">Page 29</p> <p>1 someone put it in their pickup truck and 2 took it off and put it in the bottom of 3 Smith Lake. So there are a lot of 4 possibilities. 5 Do you know why y'all don't 6 have one? 7 A. No, sir. I can't answer that. 8 I don't know. I feel very strongly we 9 looked for one. 10 Q. And you're satisfied it can't 11 be found? 12 A. Yes, sir. 13 Q. Are there standing instructions 14 for the officer in the control room, 15 that when there is an altercation, a 16 fight, something that rises to a certain 17 level involving inmates with each other 18 or inmates with guards, that they are to 19 focus the cameras and hit the button and 20 start taping? 21 A. Well, I'm certain that's the 22 way that's supposed to be done. 23 Q. And who was in the control</p>	<p style="text-align: right;">Page 31</p> <p>1 four screens in the larger screen or he 2 popped on it and it blew it up larger, 3 right? Would you agree with that? 4 Because he writes about things he saw 5 happen. 6 A. Well, he could physically see 7 part of it through the glass, too. So I 8 can't answer whether he saw it on camera 9 or through the glass. I don't know, 10 sir. 11 Q. Mr. Decatur, is he physically a 12 big fellow? 13 A. I would consider him large. I 14 mean, he's not a giant but, my opinion, 15 large. 16 Q. How would you define large? 17 A. Well, I would consider myself 18 probably extra large, so he's smaller 19 than I am. That's what I base that on. 20 Q. Have you ever hit an inmate on 21 the head with a baton? 22 A. An inmate? 23 Q. Yes, sir.</p>
<p style="text-align: right;">Page 30</p> <p>1 room? Officer Williams? 2 A. Should have been Jerry 3 Williams. 4 Q. Do you know if he followed 5 those instructions? 6 A. I do not. 7 Q. Does someone literally hit a 8 button and is there a control lever 9 that's switched or a button that's 10 pressed that starts taping? 11 A. If my memory serves me correct, 12 the system that we used at that time 13 had -- you could look at four views on 14 one fairly large screen. They had four 15 camera views. You had to physically 16 select which camera -- and I'm not 17 certain of this, but I think you had to 18 physically decide which one you wanted 19 to watch, make it full screen, and punch 20 something over here to make it record. 21 Q. We know from Officer Williams' 22 statement that he observed some things. 23 So he had to -- it was either one of the</p>	<p style="text-align: right;">Page 32</p> <p>1 A. No, sir, not that I recall. 2 Q. Have you ever hit a suspect or 3 a detainee or arrestee on the head with 4 a baton? 5 A. Not on the top of the head, as 6 I recall. 7 Q. Where on the head would you 8 might have hit somebody? 9 A. I think I may have tried to go 10 on a shoulder and got a guy kind of on 11 the side of the neck. But that's not 12 the head. But that's as close, I think, 13 as I might have gotten. 14 Q. Was it possible that George 15 Chapman may have been trying to hit 16 Mr. Decatur on the shoulder and Decatur 17 moved and got hit on the neck -- on the 18 head? 19 A. It's possible. 20 Q. Did you ever talk to George 21 about this incident? Did you ask him 22 what his version of events was? 23 A. Yes, sir, we had a conversation</p>

<p style="text-align: right;">Page 33</p> <p>1 about it.</p> <p>2 Q. What did he tell you?</p> <p>3 A. Well, I think his version is</p> <p>4 that the guy was hollering, saying</p> <p>5 something. And he called and asked for</p> <p>6 the door to be popped, and when he did,</p> <p>7 the guy just came out on him. He says</p> <p>8 the guy was, you know, still trying to</p> <p>9 attack him when he struck him with he</p> <p>10 stick, if I remember correctly what he</p> <p>11 told me. And I remember asking him,</p> <p>12 well, you know, if the guy is down on</p> <p>13 the ground, I mean, how is he trying to</p> <p>14 hurt you? He said, well, he was trying</p> <p>15 to get up and come after me.</p> <p>16 Q. And George's version is borne</p> <p>17 out by more than one of the statements,</p> <p>18 isn't it?</p> <p>19 MS. DOWDY: Object to the form.</p> <p>20 A. I don't understand. Are you</p> <p>21 saying there is another statement</p> <p>22 that --</p> <p>23 Q. There are statements from a</p>	<p style="text-align: right;">Page 35</p> <p>1 certain circumstances, right?</p> <p>2 A. Yes, sir.</p> <p>3 Q. You said that after the inmate</p> <p>4 was subdued, he still had the two probes</p> <p>5 in him from the Taser. How do you know</p> <p>6 that?</p> <p>7 A. From the statements that I</p> <p>8 reviewed and some reference to it and, I</p> <p>9 think, the nurse took them out of him.</p> <p>10 Q. Which nurse was that?</p> <p>11 Ms. Gould?</p> <p>12 A. Yes, sir.</p> <p>13 Q. There are a lot of things, I</p> <p>14 guess, that go on in jails that are</p> <p>15 pretty standard. You mentioned</p> <p>16 hangings, and that's certainly something</p> <p>17 I assume y'all don't encourage, but it</p> <p>18 happens, right?</p> <p>19 A. Yes, sir.</p> <p>20 MS. DOWDY: I object to using</p> <p>21 the words standard and hanging in the</p> <p>22 same sentence.</p> <p>23 Q. And I guess, from time to time,</p>
<p style="text-align: right;">Page 34</p> <p>1 number of people: Inmates and</p> <p>2 correction officers?</p> <p>3 A. Correct.</p> <p>4 Q. I'm asking, are you aware --</p> <p>5 because we will talk about them in a</p> <p>6 little bit. Are you aware that more</p> <p>7 than one statement bears out Officer's</p> <p>8 Chapman's version?</p> <p>9 A. The Clifton statement is the</p> <p>10 only one that I -- that comes to memory.</p> <p>11 Q. Did you ever tell George</p> <p>12 Chapman that you had hit an inmate or a</p> <p>13 detainee on the head with a baton?</p> <p>14 A. No, sir.</p> <p>15 Q. Didn't say, oh, that's not a</p> <p>16 big deal, I have done that?</p> <p>17 A. No, sir.</p> <p>18 Q. The jail's baton policy permits</p> <p>19 hitting on the head as a last resort,</p> <p>20 doesn't it?</p> <p>21 A. It's considered basically</p> <p>22 deadly force.</p> <p>23 Q. But it's permitted under</p>	<p style="text-align: right;">Page 36</p> <p>1 inmates get into fights with each other.</p> <p>2 That happens, right?</p> <p>3 A. Yes, sir.</p> <p>4 Q. And, from time to time, inmates</p> <p>5 and correction officers, guards,</p> <p>6 whatever you want to call them, have</p> <p>7 altercations, right?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Was George Chapman the only</p> <p>10 correction officer that has ever gotten</p> <p>11 into an altercation, some kind of a</p> <p>12 fight with an inmate?</p> <p>13 A. No, sir, I wouldn't think so.</p> <p>14 Q. Can you think of other</p> <p>15 instances in which officers have gotten</p> <p>16 into fights with inmates?</p> <p>17 A. Well, I can't give you a</p> <p>18 specific incident, but I certainly know</p> <p>19 it goes on.</p> <p>20 Q. And you don't terminate every</p> <p>21 correction officer that gets in a fight</p> <p>22 with an inmate, do you?</p> <p>23 A. No, sir.</p>

<p style="text-align: right;">Page 37</p> <p>1 Q. Sergeant Harper was a 2 correction officer, initially; is that 3 right? 4 A. Yes, sir. 5 Q. She was a jailer? 6 A. Yes, sir. 7 Q. And did she get promoted to 8 sergeant? 9 A. Yes, sir. 10 Q. And who promoted her? 11 A. Ultimately, I did. 12 Q. Do you know what period of time 13 she was a jailer or a correction officer 14 before she got promoted to sergeant? 15 A. No, sir, not from memory, I do 16 not. 17 Q. It was pretty quick, wasn't it? 18 MS. DOWDY: He just testified 19 he didn't remember when it was. 20 A. I don't recall. I mean, I 21 don't know. 22 Q. Do you know a woman by the name 23 of Paula Richardson?</p>	<p style="text-align: right;">Page 39</p> <p>1 A. ABL Management. 2 Q. Are you aware of an incident in 3 which an allegation was made to George 4 Chapman that Ms. Richardson, who is 5 African-American, was accused of 6 giving -- showing favoritism toward 7 African-American inmates, and some white 8 workers, co-workers of hers at ABL were 9 being questioned about that and 10 Mr. Chapman then talked to Mr. McClusky 11 about it? Does that ring a bell? 12 A. I don't have any -- I mean, I 13 don't remember. If he mentioned 14 anything to me, I can tell you 15 unequivocally, my position, they are not 16 my employees. I can't fire them, I 17 don't hire them. I don't have anything 18 to do with them. If anything makes it 19 to me that's of any consequence, I call 20 their direct manager and say, hey, you 21 better come check on this. That's my 22 position. I don't know anything about 23 an investigation or anything, really.</p>
<p style="text-align: right;">Page 38</p> <p>1 A. No, sir. 2 Q. Do you know anything about an 3 incident involving Paula Richardson that 4 Mr. Chapman complained to Mr. McClusky 5 about? 6 A. I'm not sure of the name. 7 Without some more information, I'm not 8 sure who you are talking about. 9 Q. How would you describe your 10 arrangement with your food service here 11 at the jail? Y'all serve the inmates 12 three meals a day, correct? 13 A. Yes, sir. 14 Q. Y'all have somebody that y'all 15 use to prepare those meals and serve 16 them? 17 A. Yes, sir. The county 18 commission contracts with a food service 19 management company. They handle the 20 entire kitchen. I don't have anything 21 whatsoever to basically do with the 22 kitchen. 23 Q. What is that company?</p>	<p style="text-align: right;">Page 40</p> <p>1 Q. Well, I understand your 2 testimony that you can't hire them or 3 you can't fire them. But you have to 4 make a determination that they have a 5 security clearance to come on the 6 premises, right? 7 A. Yes, sir. 8 Q. Have you ever determined that 9 there were any employees of ABL, for 10 whatever reason, you did not want on the 11 premises? 12 A. I recall maybe one. 13 Q. Who was that? 14 A. I can't tell you a name. I 15 don't recall a name. 16 Q. Was it a male or female? 17 A. I don't recall that, either. I 18 can't answer that. I don't know. 19 Q. What was it this ABL employee 20 had done that caused you to conclude 21 y'all didn't want them on the premises, 22 done or not done? 23 A. In my best judgment, that's</p>

<p style="text-align: right;">Page 41</p> <p>1 been some time back, I recall somebody 2 that they were trying to possibly hire 3 for the kitchen. We did a background 4 check and I think maybe they had some 5 criminal stuff and I think I called them 6 and said, look, these type folks, I 7 can't have them down here with these 8 other folks that are locked up, to the 9 understanding they did not hire them. 10 And that's basically -- that's from 11 memory and it's foggy on that issue. 12 Q. Do y'all do criminal background 13 checks on all people that ABL are 14 seeking to hire? 15 MS. DOWDY: To work here or 16 work anywhere? 17 MR. SAXON: To work here. 18 A. I know we did. I'm under the 19 assumption we do. I can't say that. I 20 don't deal with that kitchen very much, 21 in all honesty. 22 Q. Do you remember an officer by 23 the name of Sam Sherer?</p>	<p style="text-align: right;">Page 43</p> <p>1 Baton Rouge, I understand, where I could 2 have called them. 3 Q. You called somebody in 4 headquarters and said we don't want this 5 person? 6 A. I think, yes, sir, my best 7 judgment. 8 Q. When an officer uses a Taser, 9 do they have to do some kind of report 10 after the fact? 11 A. Yes, sir. 12 Q. And do they indicate or give 13 some description of the subject's action 14 after the Taser was deployed? 15 A. Yes, sir. 16 Q. Do you remember seeing in 17 Officer Clifton's Taser report where she 18 answered the question this way: Brief 19 description of subject's actions after 20 Taser was deployed, and she wrote inmate 21 was on the floor, trying to get up and 22 still going to fight. Did you see that? 23 A. I'm sure I did, if it was in a</p>
<p style="text-align: right;">Page 42</p> <p>1 A. Yes, sir. 2 Q. Did he ever use excessive force 3 on an inmate? 4 A. Yes, sir. 5 Q. More than once? 6 A. I don't recall if it was more 7 than once, but I know he did one time. 8 Q. Who did you deal with at ABL 9 when you told them your background check 10 of somebody they were thinking of hiring 11 didn't reveal what you would have liked 12 it to reveal? 13 A. That's been some time back. 14 It's not a recent thing that I'm -- it 15 would have either been a district 16 manager, which they are not there -- 17 John Appleton is the CEO of ABL. Roshan 18 or Roshon Cody, I think, is the district 19 manager now. He at one time was the 20 on-site guy here. But this hasn't been 21 anything recent. I honestly can't tell 22 you who I probably called, but it could 23 have been -- they are headquartered in</p>	<p style="text-align: right;">Page 44</p> <p>1 report, yes, sir. 2 Q. Officer Clifton did not, 3 however, administer a second charge from 4 the Taser, did she? 5 A. That's my understanding, she 6 did not. 7 Q. Now, if the probes were still 8 in, as you say, and the inmate was 9 trying to get up and still going to 10 fight, should she have administered a 11 second hit from the Taser? 12 A. Well, that would be, I think, 13 acceptable and correct. 14 Q. Did you talk to Officer Clifton 15 about her Taser report? 16 A. Not that I recall. I could 17 have. I'm not sure. 18 Q. Now, trying to get up and still 19 going to fight is different from just 20 laying on the ground, right? 21 A. Yes, sir. 22 Q. Did you actually read Officer 23 Clifton's statement that she wrote out,</p>

<p style="text-align: right;">Page 45</p> <p>1 not the Taser report, but just the 2 incident report? 3 A. Yes, sir. 4 Q. Okay. Were you aware that 5 Officer Clifton gave a verbal command to 6 Decatur to stop fighting and he ignored 7 that and continued to fight? 8 A. If it was in her statement, 9 I've certainly read it, yes, sir. 10 Q. Okay. Well, she said: Saw CO 11 Chapman and IM Joseph Decatur fighting. 12 CO Clifton gave a verbal command to IM 13 Decatur to stop, IM Decatur still fought 14 with CO Chapman. And then she deployed 15 the Taser because he hadn't heeded the 16 verbal command. Did you ask her about 17 that statement? 18 A. I can't recall. 19 Q. Now, she says after she 20 deployed the Taser, Decatur fell to the 21 floor and then she says IM Decatur 22 started to stand up. CO Clifton gave 23 the verbal command to IM Decatur to stay</p>	<p style="text-align: right;">Page 47</p> <p>1 given him a command to stay on the 2 floor, Decatur still tried to stand up. 3 She says Chapman then tried to restrain 4 Inmate Decatur from getting up and 5 advancing toward all officers. 6 Were you aware that, in 7 Clifton's judgment, Chapman was 8 protecting the other officers from 9 Mr. Decatur? 10 A. I read that in her statement, 11 yes, sir. 12 MR. SAXON: Off the record. 13 14 (Discussion off the record.) 15 16 Q. (BY MR. SAXON:) Sheriff, in 17 Officer Williams' report, he writes that 18 Inmate Decatur was striking CO Chapman, 19 Inmate Decatur had CO Chapman bent over 20 and was hitting him and pulling his 21 shirt up over his head. 22 Do you remember reading that 23 description in Williams' report?</p>
<p style="text-align: right;">Page 46</p> <p>1 on the floor. IM Decatur still tried to 2 stand up. 3 So she has given a second 4 command. The first one was stop 5 fighting; he ignored that; and now she 6 is giving him a verbal command to stay 7 down and he has ignored that. Did you 8 see that in her report? 9 A. Yes, sir, I did. 10 Q. Now, if an officer has given 11 two commands to an inmate that have been 12 ignored, in between the two commands has 13 Tasered him, has not chosen to Taser him 14 a second time, but told him to stay down 15 and he didn't and he's trying to get up, 16 why wouldn't that justify, under the 17 circumstances, Officer Chapman using a 18 baton on him? 19 A. If the guy was on his feet, I 20 suppose in our force continuum, that 21 falls in there, the use of a baton if 22 the guy is threatening you. 23 Q. Finally, Clifton says she has</p>	<p style="text-align: right;">Page 48</p> <p>1 A. Yes, sir, I do. 2 Q. Now, George Chapman is not a 3 tiny, little fellow, is he? 4 A. No, sir. 5 Q. Would you call him large or 6 extra large? 7 A. Falls under extra large. 8 Q. So if Mr. Decatur has got him 9 bent over and hitting him and pulling 10 his shirt over his head, Decatur was -- 11 MS. DOWDY: Winning. I'm 12 sorry. 13 Q. -- winning, wasn't he, or being 14 aggressive? 15 A. Yes, sir. 16 Q. Who is Mary Phillips? 17 Correction officer? 18 A. Yes, sir. 19 Q. Now, Officer Phillips has a 20 report in which she says Chapman was 21 hitting Inmate Decatur with his baton. 22 CO Tiffany Clifton arrived just ahead of 23 CO Phillips, and just as CO Phillips was</p>

<p style="text-align: right;">Page 49</p> <p>1 approaching the fight, CO Clifton 2 deployed the Taser at Inmate Decatur. 3 Upon deployment, Inmate Decatur 4 immediately dropped to the floor and 5 started to holler, I quit. CO Chapman 6 left Inmate Decatur's side and went over 7 to the table in M-Dorm and put his shirt 8 on and so forth. 9 Did you ask Officer Phillips 10 why she has a version different from 11 other people? She has a version that 12 the hitting of the baton was going on 13 during the fight and before the 14 Tasing. Did you notice that when you 15 read her statement? 16 A. I recall from reviewing them 17 this morning, there is some discrepancy. 18 Q. And then she has, after the 19 Tasing, that there was no more contact 20 by Chapman, that Chapman did not use the 21 baton after he was Tasered, dropping to 22 the floor and hollering, I quit. Did 23 you see that?</p>	<p style="text-align: right;">Page 51</p> <p>1 standing there who has just Tasered him 2 says. Clifton says, I gave him a 3 command, he didn't stop fighting, I 4 Tasered him, he starts to get up; I said 5 stay down, he didn't stay down, he's 6 coming up fighting. That's the officer 7 who Tasered him, who clearly was there 8 on top of things. 9 Why wouldn't you give -- when 10 you got that statement and you've got 11 Phillips having no beating with the 12 baton after the Tasing, why doesn't 13 George Chapman get the benefit of the 14 doubt? 15 A. Well, I can't say that he 16 didn't get the benefit of the doubt. My 17 question throughout this somewhat, too, 18 is if, in fact, Clifton says he's trying 19 to get back up, simple thing to have 20 done is pull the trigger again. That 21 could have been avoided, but she -- 22 Q. But that was Clifton's mistake? 23 A. That's correct.</p>
<p style="text-align: right;">Page 50</p> <p>1 A. Yes, sir. 2 Q. Did you ask her about that? 3 A. No, sir, I did not. Or I don't 4 recall asking her. 5 Q. Well, if you terminated George 6 Chapman, as you told me you did, for 7 hitting an inmate after he was Tasered, 8 on the ground, and you've got an officer 9 who says that's not how it happened, 10 what weight did you give to all these? 11 Did you decide who you believed and 12 didn't believe when you read these 13 statements? 14 A. Well, I can't say that I -- I 15 read the entire -- everything that was 16 provided to me, I took the time out and 17 reviewed it and looked at it and read 18 them. And just the whole total 19 circumstance of the thing, I made a 20 decision that he went outside the policy 21 on the striking of the inmate after he 22 was down and no threat. 23 Q. But that's not what the officer</p>	<p style="text-align: right;">Page 52</p> <p>1 Q. You fired George Chapman 2 because Clifton didn't Taser him a 3 second time? 4 A. No, sir, I did not. 5 Q. Who is Correction Officer 6 Killingsworth? 7 A. She was an employee here at the 8 jail, correctional officer. 9 Q. In her report, she says Officer 10 Clifton Tasered Inmate Decatur and 11 Decatur slumped to the floor. And then 12 she says Chapman began to hit Inmate 13 Decatur. Inmate Decatur's arms and 14 hands were up, still attempting to 15 fight. So she says Decatur was not just 16 laying on the ground non-combative, as 17 you put it earlier. 18 Did you ask her -- I assume you 19 read Killingsworth's report? 20 A. Yes, sir. 21 Q. That's another one of these 22 where he is still fighting back, right? 23 A. Well, not necessarily. I mean,</p>

<p style="text-align: right;">Page 53</p> <p>1 I have to review each and every one of</p> <p>2 them.</p> <p>3 Q. Who is Ronald Grant?</p> <p>4 A. Who?</p> <p>5 Q. Ronald Grant.</p> <p>6 A. I don't know, unless he's an</p> <p>7 inmate.</p> <p>8 Q. Did y'all take some statements</p> <p>9 from some inmates?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Did you read those statements,</p> <p>12 too, as a part of this report?</p> <p>13 A. I did, the ones that were in</p> <p>14 the file, yes, sir.</p> <p>15 Q. Did you read that Ronald Grant</p> <p>16 says Inmate Decatur told Correctional</p> <p>17 Officer Chapman, quote, to open this</p> <p>18 mother fucking door and I will kick your</p> <p>19 mother fucking ass, unquote? Did you</p> <p>20 see that?</p> <p>21 A. I read that, yes, sir.</p> <p>22 Q. Decatur wasn't in a nice mood</p> <p>23 that night, was he, I reckon?</p>	<p style="text-align: right;">Page 55</p> <p>1 Inmate Decatur had Correctional Officer</p> <p>2 Chapman against the wall and began</p> <p>3 hitting him in the head. Correction</p> <p>4 Officer Chapman takes nightstick out and</p> <p>5 swings at Inmate Decatur.</p> <p>6 So, according to Mr. Lawson,</p> <p>7 did you read in here in his statement</p> <p>8 where it was self-defense and Chapman</p> <p>9 pulled his baton out after Decatur was</p> <p>10 hitting him in the head? Did you read</p> <p>11 that part of it?</p> <p>12 A. I read that statement, yes,</p> <p>13 sir.</p> <p>14 Q. That's not exactly the version</p> <p>15 that Sergeant Harper tells, is it?</p> <p>16 A. No, sir.</p> <p>17 Q. If an inmate who has already</p> <p>18 called an officer a fat bastard and told</p> <p>19 him he was going to kick his mother</p> <p>20 fucking ass starts hitting him in the</p> <p>21 head, would that justify a correction</p> <p>22 officer from defending himself with his</p> <p>23 baton?</p>
<p style="text-align: right;">Page 54</p> <p>1 A. It doesn't sound like it.</p> <p>2 Q. Is James Lawson another one of</p> <p>3 your inmates?</p> <p>4 A. Possibly, yes, sir. He's not</p> <p>5 an employee.</p> <p>6 Q. If someone lists their address</p> <p>7 as M-007, is that M-Dorm?</p> <p>8 A. Yes, sir.</p> <p>9 Q. And Ronald Grant was M-006. Is</p> <p>10 that a cell in M-Dorm?</p> <p>11 A. Yes, sir.</p> <p>12 Q. And then Mr. Lawson was --</p> <p>13 M-007 is his cell. Mr. Lawson says that</p> <p>14 he heard Decatur call Chapman a fat</p> <p>15 bastard. Do you remember reading that</p> <p>16 in the statements?</p> <p>17 A. Yes, sir, I do.</p> <p>18 Q. Now, Mr. Lawson says Inmate</p> <p>19 Decatur came out of the cell and hit</p> <p>20 Correction Officer Chapman in the</p> <p>21 stomach, and Decatur was pushing</p> <p>22 correction officer backwards and</p> <p>23 correction officer's pants fell down.</p>	<p style="text-align: right;">Page 56</p> <p>1 A. That would not prevent him</p> <p>2 from -- no, sir.</p> <p>3 Q. It would be okay for the</p> <p>4 officer to defend himself with his</p> <p>5 baton?</p> <p>6 A. Yes, sir.</p> <p>7 Q. You have an inmate by the name</p> <p>8 of Steven Garner or did you have who was</p> <p>9 in cell 16 of M-Dorm?</p> <p>10 A. He's been in jail here.</p> <p>11 Q. Did you read in Mr. Garner's</p> <p>12 statement that Decatur and Chapman were</p> <p>13 fighting in front of the phones, Chapman</p> <p>14 pushed inmate off of him and hit him in</p> <p>15 his shoulder with his stick; at this</p> <p>16 time, Sergeant Harper came in, and then</p> <p>17 says Chapman was Tasered? Did you read</p> <p>18 that statement?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Mr. Garner says Chapman hit him</p> <p>21 in the shoulder with his baton, right?</p> <p>22 A. That's what he states, yes,</p> <p>23 sir.</p>

<p style="text-align: right;">Page 57</p> <p>1 Q. And that that was before the 2 Taser?ing? 3 A. Correct. 4 Q. And Mr. Garner is a white 5 inmate, correct? 6 A. Yes, sir. 7 Q. And Joseph Decatur is white, 8 right? 9 A. Yes, sir. 10 Q. Do y'all have inmates here 11 designated at the jail as trustees? 12 A. Yes, sir, we do. 13 Q. What does that mean? 14 A. They help clean and do some 15 work around the jail inside. Some are 16 allowed access to outside, trash 17 removal, cleaning in general. 18 Q. Washing cars? 19 A. Yes, sir. 20 Q. And when they are outside 21 washing cars, are they in leg irons or 22 tethered on a chain around their neck or 23 what?</p>	<p style="text-align: right;">Page 59</p> <p>1 car-washing inmates who decided to take 2 a vacation from the premises, didn't 3 you? 4 A. I recall one. 5 Q. Who was that? 6 A. I can't say his name. As I 7 recall, he took one of the chairman of 8 the county commission's car, but I can't 9 recall his name. 10 Q. And he took off and got stopped 11 by other law enforcement officers and 12 was invited to come back, right? 13 A. Yes, sir. 14 Q. You didn't terminate 15 Mr. McClusky for that, did you? 16 A. No, sir. 17 Q. Who got to explain to the 18 county commissioner where his car was? 19 A. I did. 20 Q. What did the chairman say? 21 A. Not a lot, really. He didn't 22 fuss. He was getting the car cleaned 23 up; he was trading it in.</p>
<p style="text-align: right;">Page 58</p> <p>1 A. No, sir. 2 Q. So they are kind of free to 3 come and go -- 4 A. Well, yes, sir. 5 Q. -- on the premises? 6 A. On the premises, supposed to 7 be. 8 Q. And is there somebody who makes 9 the decision what trustees can go out 10 and wash cars? 11 A. Yes, sir. 12 Q. Who does that? 13 A. I think Trent probably has the 14 final approval. Sometimes, if he has 15 any doubt or question, he will -- and 16 I'm speaking of Trent McClusky -- he 17 will ask me. I think sergeants and 18 lieutenants in the jail make 19 recommendations to him, and it's kind of 20 a joint effort where he probably 21 approves the majority, and occasionally, 22 I will. 23 Q. Y'all had a couple of</p>	<p style="text-align: right;">Page 60</p> <p>1 Q. Did Mr. Decatur file some kind 2 of legal action based on this incident? 3 A. Yes, sir. 4 Q. Was it a lawsuit? 5 A. Yes, sir. 6 Q. In state or federal court? 7 A. I think federal, but I can't be 8 sure. 9 Q. Who represented Decatur in that 10 action? 11 A. I do not know. 12 Q. What was the outcome of that 13 lawsuit? 14 A. It's my understanding that our 15 insurance provider and their attorneys 16 who represent us settled that case. 17 Q. What did y'all pay him to go 18 away? 19 A. I don't know. 20 Q. \$10,000 sound right? 21 A. I don't have any idea. They 22 don't normally cue me in on that. 23 Q. What happened to Mr. Decatur in</p>

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1 A. He was sent to the courthouse
2 to pick one up from Court Referral,
3 which is an agency, not a part of us,
4 it's an extension of the court. It was
5 a Madison boy is about all I can
6 remember. And George was sent to pick
7 him up, and I don't think he carried any
8 handcuffs, shackles, anything, and the
9 guy just ran off.

10 Q. Did you terminate Mr. Chapman
11 for that?

12 A. No.

13 Q. And a couple of days later in
14 October of 2008, did you get some kind
15 of report or were you told about a
16 report that had been made by somebody
17 over at the hospital regarding
18 Mr. Chapman?

19 A. Yes.

20 Q. Do you recall what that was
21 about?

22 A. Just the gist of that. He was
23 sent by us on duty to guard an inmate

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1 who was admitted to Walker Baptist
2 Medical Center.

3 Q. Was that inmate Mr. Files?

4 A. Yes.

5 Q. Was Mr. Files an elderly
6 gentleman?

7 A. Yes. And in pretty poor
8 health.

9 Q. Who made that report against
10 Mr. Chapman?

11 A. I don't recall the exact name,
12 but it was a nurse who actually
13 contacted us about him slapping --
14 George Chapman slapping Mr. Files, the
15 inmate, while out at the hospital.

16 Q. And the employees over at the
17 hospital, they are not part of your
18 staff, are they?

19 A. No, they are not. No, ma'am.

20 Q. And was there an investigation
21 going on into that allegation of
22 excessive force over at the hospital?

23 A. Well, yes, ma'am.

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1 Q. And do you know whether that
2 investigation had been completed at the
3 time of the incident with Mr. Decatur on
4 November 2nd, 2008?

5 A. No, ma'am, it was not.

6 Q. And had you made the decision
7 or somebody made the decision that
8 Mr. Chapman could not go back out there
9 to the hospital until the investigation
10 was complete?

11 A. Correct, I made that decision.

12 Q. You fired Sam Sherer; is that
13 correct?

14 A. As I recall, he could have
15 resigned prior to me firing him. I
16 mean, that happens sometimes. I can't
17 tell you from memory. That was even
18 further back than this.

19 Q. Would that have been in like
20 2003, Sheriff?

21 A. Two or three, somewhere in
22 there, yes, ma'am.

23 Q. And Mr. Sherer was a sergeant?

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1 A. He was.

2 Q. Is he a white male?

3 A. He was.

4 Q. And if he resigned, would it
5 have been because you had given him a
6 choice to resign or be fired?

7 A. I can't tell you specifically.
8 Sometimes, once I serve notice to set up
9 a hearing or a notice of my intent to
10 start termination, I mean, if they come
11 in and quit, they do. I can't stop
12 that.

13 Q. Right.

14 A. But I can't tell you whether he
15 did or he didn't, but I recall I was
16 headed down that road to terminate him.

17 Q. You were asked earlier about
18 some of the inmates' statements and a
19 couple of the -- there were several
20 inmates who gave statements --

21 A. Yes, ma'am.

22 Q. -- following the incident with
23 Mr. Decatur; is that right?

17 (Pages 65 to 68)

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<p>1 A. Yes.</p> <p>2 Q. And were there also several</p> <p>3 inmates who gave statements, that you've</p> <p>4 reviewed, that said that Mr. Chapman</p> <p>5 struck Inmate Decatur while he was still</p> <p>6 down?</p> <p>7 A. Yes.</p> <p>8 Q. And those would have been</p> <p>9 consistent with a couple of your other</p> <p>10 officers, correct, Sheriff?</p> <p>11 A. Correct.</p> <p>12 Q. Did you review any statement,</p> <p>13 that you can recall, from one of your</p> <p>14 officers that indicated to you that</p> <p>15 Mr. Decatur was back on his feet at the</p> <p>16 time Chapman struck him?</p> <p>17 A. Did I review a statement?</p> <p>18 Q. That said he was back up on his</p> <p>19 feet after he had been Tasered.</p> <p>20 A. I don't recall that exact term.</p> <p>21 I think there was maybe one that said he</p> <p>22 was trying to get on his feet. I don't</p> <p>23 recall exactly without actually reading</p>	<p>1 after that, you move up to deadly force.</p> <p>2 And the policy actually says, and we</p> <p>3 teach that in any of our training, that</p> <p>4 blows to the head can be lethal, they</p> <p>5 can be deadly.</p> <p>6 Q. You testified earlier that</p> <p>7 there may be occasions when an officer</p> <p>8 could violate the policy against --</p> <p>9 that's posted outside of M-Dorm if he is</p> <p>10 alone and calls for a door to be opened;</p> <p>11 is that right?</p> <p>12 A. (No response.)</p> <p>13 Q. For instance, if you have an</p> <p>14 inmate that's in the M-Dorm, in a cell</p> <p>15 in M-Dorm and he's on the ground, can</p> <p>16 the officer then call for that door to</p> <p>17 be opened even though he is by himself?</p> <p>18 A. I'm not sure. Are you asking</p> <p>19 me does it happen or would I say it's</p> <p>20 okay to violate --</p> <p>21 Q. That could happen, right?</p> <p>22 A. It can happen, yes.</p> <p>23 Q. And that would be okay to</p>
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<p>1 it.</p> <p>2 Q. Is there a difference to you</p> <p>3 about being on your feet and trying to</p> <p>4 get up?</p> <p>5 A. Yes.</p> <p>6 Q. Under your force continuum, in</p> <p>7 order for you to hit an inmate, to use</p> <p>8 your baton, should there be an immediate</p> <p>9 threat that is capable of being carried</p> <p>10 out?</p> <p>11 A. Sure. But it's an escalating</p> <p>12 policy. To answer your question, from</p> <p>13 my memory, it starts with officers'</p> <p>14 presence, just being there, verbal</p> <p>15 commands, from verbal commands of, you</p> <p>16 know, stop or put it down or whatever,</p> <p>17 then the next one, it's, I think, OC,</p> <p>18 the gas and Taser are equals. And the</p> <p>19 next one above that, if they are</p> <p>20 ineffective or not working, you can go</p> <p>21 on up some to the baton, and the baton</p> <p>22 is designed to strike nonlethal areas:</p> <p>23 The arms, leg, nonvital areas. And then</p>	<p>1 violate the policy if that were the</p> <p>2 case, correct.</p> <p>3 A. It's one of those calls, I</p> <p>4 mean --</p> <p>5 Q. You leave that up to your</p> <p>6 officer --</p> <p>7 A. Certainly.</p> <p>8 Q. -- to make a judgment call?</p> <p>9 A. Correct.</p> <p>10 Q. And if some of these inmates</p> <p>11 gave statements that said Mr. Decatur</p> <p>12 was taunting Mr. Chapman and telling him</p> <p>13 to open the door and fight him, that</p> <p>14 would not be a valid reason for him to</p> <p>15 violate that policy, wouldn't it?</p> <p>16 A. No. It would be all the more</p> <p>17 reason to don't open it if somebody</p> <p>18 tells you they are going to come out and</p> <p>19 kick your butt.</p> <p>20 Q. Are you aware that Mr. Chapman</p> <p>21 was one of the officers who escorted</p> <p>22 Mr. Decatur to M-Dorm when he had to be</p> <p>23 moved over there?</p>

<p style="text-align: right;">Page 73</p> <p>1 A. I understand that or did, yes, 2 ma'am. 3 Q. Do you know why he had to be 4 moved? 5 A. Mr. Decatur had acted up in one 6 of the dorms and actually, I think, 7 damaged some of the county's property. 8 I don't recall if it was a sprinkler 9 head exactly or had broken something. 10 And that's pretty well our standard 11 thing. The internal sanctions is move 12 you to M-Dorm then for internal 13 sanctions for violation of institutional 14 rules. 15 But I understand Mr. Chapman 16 was fully aware of that when it happened 17 and was actually one of the escorting 18 officers who brought him up there and 19 locked him up in M-Dorm. 20 Q. Is it part of your job here -- 21 I mean, if you work in a jail, that an 22 inmate is going to say things to you 23 that are probably not appropriate?</p>	<p style="text-align: right;">Page 75</p> <p>1 circumstances and I am sure I haven't 2 terminated them. I can't say that I 3 would have terminated him just for 4 opening a door under some reasonable 5 circumstance. 6 Q. Did you take into account that 7 there was already a pending 8 investigation against Mr. Chapman for 9 excessive force when you made the 10 decision to terminate him? 11 A. Absolutely. 12 Q. And did it play into or did it 13 factor at all into your decision to 14 terminate Mr. Chapman, in that the other 15 complaint of excessive force came from 16 an absolutely independent source? 17 A. Certainly, it did. 18 Q. Would you have terminated 19 Mr. Chapman if he had been of a 20 different race or nationality? 21 A. It has nothing to do with it. 22 No. 23 Q. Did his race kind of factor</p>
<p style="text-align: right;">Page 74</p> <p>1 A. Absolutely. 2 Q. Are they going to curse you 3 regularly if you work in a jail? 4 A. Frequently. 5 Q. Is that any reason for you to 6 open a cell door to get an inmate out, 7 because they have cursed you? 8 A. No. 9 Q. If Mr. Chapman had followed the 10 policy and not opened the cell door in 11 M-Dorm, this whole episode could have 12 been avoided, could it not have? 13 A. I would say so. 14 Q. And would you have fired 15 Mr. Chapman if he had not used his 16 baton, Sheriff? 17 A. I don't think I would have. I 18 mean, he has violated the policy. But, 19 you know, the incident of him being on 20 the ground, I mean, both those coupled 21 together, I mean, one compounded the 22 other one. I mean, I have had officers 23 who have opened the door before in</p>	<p style="text-align: right;">Page 76</p> <p>1 into this equation to make a decision to 2 terminate him at all? 3 A. None. 4 Q. And if we assume that 5 Mr. Chapman had had some conversation 6 with Mr. McClusky about Ms. Richardson 7 who worked for this other company down 8 here, the food service company, did that 9 play into your decision to terminate him 10 at all? 11 A. I'm not even sure I knew 12 anything about it. And no, it played no 13 part in his termination. 14 MS. DOWDY: Okay. That's all 15 the questions I've got. 16 MR. SAXON: I have a few 17 follow-ups, Sheriff. 18 THE WITNESS: Yes, sir. 19 20 FURTHER EXAMINATION BY MR. SAXON: 21 Q. The incident involving 22 Mr. Files at Walker Baptist Medical 23 Center, was there a formal investigation</p>

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1 of that matter?

2 A. I don't know if we carried on

3 through with it after his termination.

4 Q. And so if you didn't carry on

5 through with it, you wouldn't know what

6 the result of the investigation was,

7 would you?

8 A. Not the final one, no, sir.

9 Q. Do you recall what investigator

10 was looking at the Files/Walker Baptist

11 incident?

12 A. I don't know independently if I

13 actually assigned an investigator or

14 Mr. McClusky and I talked and he was

15 trying to do some stuff to get to it.

16 Q. Sitting here today, is it your

17 best recollection that after George

18 Chapman was terminated, y'all didn't

19 pursue the investigation anymore into

20 the Files matter?

21 A. Correct. That's my best

22 judgment, yes, sir.

23 Q. And sitting here today and

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1 under oath, it's your best recollection

2 you don't know whether Sam Sherer

3 resigned or you terminated him, correct?

4 A. Not without the file. That's

5 been some time back. I truthfully

6 can't.

7 Q. So I'm correct in saying you

8 don't recall one way or the other

9 whether he resigned or was terminated;

10 is that correct?

11 A. Correct.

12 Q. The incident Ms. Dowdy asked

13 you about where Officer Chapman was to

14 go pick up an inmate and he forgot to

15 carry his cuffs and the inmate ran off,

16 the inmate didn't steal the chairman of

17 the county commission's car and take it

18 with him, did he?

19 A. No, sir.

20 Q. And you said you didn't

21 terminate George Chapman for that.

22 Y'all got the inmate back, y'all

23 apprehended him; is that correct?

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1 A. Yes, sir.

2 Q. If you had terminated George

3 for that, you would probably have had to

4 terminate Trent for letting the car-wash

5 trusty drive off with the county

6 commission chairman's car, wouldn't you?

7 MS. DOWDY: Object to the form.

8 A. It was my decision on both of

9 them and I elected not to.

10 Q. Okay. You told Ms. Dowdy that

11 trying to get on your feet is not the

12 same as being on your feet. But if an

13 inmate who has already been aggressive

14 and struck and beaten a correction

15 officer is trying to get on his feet, if

16 you don't take some step, he probably

17 will get on his feet, right?

18 MS. DOWDY: Object to the form.

19 A. Yes, sir.

20 Q. Ms. Dowdy asked you some

21 questions about Ms. Richardson, the food

22 service employee, and you said that the

23 Richardson matter played no part in your

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1 termination of George Chapman, right?

2 A. Correct.

3 Q. Do you know for a fact whether

4 the Richardson matter played any role in

5 Mr. McClusky's recommendation to you

6 that George Chapman be terminated?

7 A. I have no idea.

8 Q. Okay. Don't know one way or

9 the other?

10 A. No, sir.

11 Q. Okay. But he made that

12 recommendation to you and you ratified

13 it?

14 MS. DOWDY: Object to the form.

15 A. He and several others, and then

16 independently, I decided. Yes, sir. To

17 answer your question, yes, sir.

18 MR. SAXON: Okay. That's all

19 I've got.

20

21 FURTHER EXAMINATION BY MS. DOWDY:

22 Q. Sheriff, who makes the decision

23 to terminate employment of one of your

1 officers?
 2 A. Rests solely with the sheriff.
 3 Myself.
 4 Q. If you have some of your other
 5 staff recommending that they
 6 terminate -- recommending that you
 7 terminate, does that mean that you are
 8 going to terminate that employee?
 9 A. No, ma'am. I have elected not
 10 to terminate some folks that
 11 Mr. McClusky has recommended and other
 12 folks, too, that I have not terminated.
 13 Q. If an inmate has been Tasered
 14 and there are five officers present and
 15 the inmate is on the ground but trying
 16 to get up, does that warrant an officer
 17 striking that inmate with a baton if he
 18 is not on his feet?
 19 A. No.
 20 Q. Okay. And isn't that the case
 21 that the majority of the witnesses to
 22 this incident said had happened?
 23 A. That's correct.

1 Q. And the cell door that exists
 2 between an inmate and an officer,
 3 doesn't that act as a barrier to keep
 4 those two people apart?
 5 A. Yes.
 6 Q. And if you open that door, the
 7 barrier is removed, correct?
 8 A. Correct.
 9 Q. So Mr. Chapman removed the
 10 barrier between he and Inmate Decatur
 11 when he called for that cell door to be
 12 opened, did he not?
 13 A. Correct.
 14 MS. DOWDY: I don't have any
 15 other questions.
 16
 17 FURTHER EXAMINATION BY MR. SAXON:
 18 Q. Can you name someone who Trent
 19 McClusky recommended be terminated and
 20 you didn't terminate them?
 21 A. I think Rhonda Whisenhunt, if
 22 that's her name, I think he kind of --
 23 that would be one.

1 Q. Rhonda what?
 2 A. Whisenhunt. I would have -- if
 3 you give me a few minutes, I can name
 4 you another one or two.
 5 Q. What was Rhonda Whisenhunt's
 6 position?
 7 A. Correctional officer -- I mean,
 8 jailer, I think. I'm not sure if she is
 9 full time now or part time. But I think
 10 at the time, she was part time.
 11 Q. And what had she done that, in
 12 the judgment of Mr. McClusky, warranted
 13 termination?
 14 A. This is from memory and it's
 15 not -- I think she had screwed up a
 16 bunch of stuff on booking in some folks
 17 over there, and I think he was
 18 frustrated to the point of -- he tried
 19 to correct and have her trained on some
 20 stuff about booking, if my memory is
 21 correct. And he just told me, you know,
 22 he thought that she wasn't going to work
 23 out and he recommended termination. And

1 I looked at the thing and I did not feel
 2 that way, so I didn't terminate her.
 3 Q. When was this?
 4 A. Last two or three years, best
 5 judgment.
 6 Q. And what is Ms. Whisenhunt's
 7 race?
 8 A. She is white. I'm trying to
 9 remember. Maybe one of our evening
 10 shift supervisors, he came up and saw me
 11 and recommended, and I elected not to do
 12 any -- terminate him.
 13 Q. Do you have a name?
 14 A. Probably James Woodley.
 15 Lieutenant James Woodley.
 16 Q. He was an evening shift
 17 supervisor?
 18 A. He was an evening shift
 19 lieutenant, yes, sir.
 20 Q. What had he done in
 21 Mr. McClusky's estimation to warrant
 22 termination?
 23 A. I think he was absent quite a

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1 bit from duty. Well, I mean, not absent
2 from duty, but wasn't supervising his
3 personnel and some things along those
4 lines of being a good supervisor. And
5 this is just bits and pieces from my
6 memory. I can't a hundred percent tell
7 you.

8 Q. How long ago was that?

9 A. Three or four years. He
10 finally retired on his own.

11 Q. And what is Lieutenant
12 Woodley's race?

13 A. He's white.

14 MR. SAXON: That's all I've
15 got.

16 MS. DOWDY: I don't have
17 anything else.

18
19 (Further Deponent Saith Not)

20
21 (Whereupon, deposition
22 concluded at 12:15 p.m.)
23

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1 CERTIFICATE
2 STATE OF ALABAMA)
3 JEFFERSON COUNTY)
4

5 I hereby certify that the above and
6 foregoing deposition was taken down by
7 me in stenotype, and the questions and
8 answers thereto were transcribed by
9 means of computer-aided transcription,
10 and that the foregoing represents a true
11 and correct transcript of the testimony
12 given by said witness upon said hearing.

13 I further certify that I am neither
14 of counsel, nor kin to the parties to
15 the action, nor am I in any way
16 interested in the result of said cause
17 named in said caption.

18
19 /s/Melanie L. Petix
20 MELANIE L. PETIX, CCR
21 License Number: ACCR-412
22 My Commission expires 9/13/12
23

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